

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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Federal Communications Commission
Office of Secretary

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In the Matter of

Billed Party Preference for
0+ InterLATA Calls

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CC Docket No. 92-77

COMMENTS OF THE
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

THE COMPETITIVE
TELECOMMUNICATIONS ASSOCIATION

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November 13, 1996

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TABLE OF CONTENTS

I.	THE COMMISSION SHOULD ADOPT AN ALTERNATIVE DISCLOSURE HELPFUL TO CONSUMERS	2
II.	RESPONSES TO THE BUREAU'S QUESTIONS	5
1.	Are there any industries in which price disclosure to consumers at the point of purchase is not the normal practice? If so, what are those industries and what are the particular circumstances surrounding the developments of those industries?	5
2.	What kinds of technologies (including payphone equipment and associated software) are currently available to provide on-demand call rating information for calls from payphones, other aggregator locations, and phones in correctional institutions that are provided for use by inmates? Commenters should discuss the anticipated declining cost of these technologies, assuming a wide-spread demand for these services.	7
4.	Some commenters have claimed that price disclosure prior to call completion would create an unacceptable delay to consumers. Are there any studies that substantiate or dispute this contention and are those studies available? Are there any studies available that provide indications of consumer satisfaction or dissatisfaction with 0+ services provided in this fashion?	8
7.	What effects, if any, will the recent Report and Order in the Matter of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket Nos. 96-128, 91-35, FCC 96-388 (released September 20, 1996) have on this proceeding?	9
	CONCLUSION	10

SUMMARY

CompTel agrees with the Commission that callers should have sufficient information available to them so that they may make informed decisions in their use of operator-assisted calling services. The Commission's proposed price disclosure requirement exceeds the Commission's statutory authority by attempting to discriminate among carriers on the basis of rates charged without conducting the rate inquiry necessary to do so, and also by proposing a disclosure which exceeds the content authorized by TOCSIA. The Commission's proposed price disclosure requirement also is infeasible because it ignores the fact that call processing systems are not designed to perform real-time call rating, and the modifications that would be necessary to accomplish this are non-existent, difficult, and extremely costly. Therefore, CompTel opposes a requirement that carriers deemed "high priced" disclose prices on each 0+ call they carry.

In these further comments, CompTel proposes an alternative disclosure which is helpful to consumers, avoids the legal pitfalls of the Commission's proposal, and is feasible for every 0+ carrier to implement. Specifically, CompTel proposes that every presubscribed carrier serving non-inmate aggregator phones, regardless of the rates it charges, be required to provide an audible disclosure immediately after its carrier brand, which states substantially as follows:

BONG. Thank you for using _____. For assistance or to obtain a rate quote press the # key [or any other sequence of digits designated by the carrier, including staying on the line]. To complete your call, please enter your calling card number now.

This alternative, if applied to all carriers, builds upon and is consistent with the approach of TOCSIA, which makes information available to consumers and allows consumer behavior and market forces to dictate carrier practices.

In addition to the above proposal, CompTel offers additional comment on the specific questions raised by the Bureau. Regarding the practice of price disclosure at the point of purchase, CompTel notes that the lack of price disclosure is common in a number of contexts -- including 1 + dialing -- in which a consumer pays a usage-based charge for recurring billing events. In these instances, consumers have rate information available, but do not receive price disclosures with each billable event. Regarding the technologies available for real-time call rating, CompTel notes that carriers ordinarily do not perform call rating as part of the call set-up process, and that modifications necessary to accomplish this do not exist today, and would be difficult and expensive to develop. Further, regarding the effect price disclosure would have on call set-up times, CompTel agrees that the proposal would add significantly to call set-up, and would increase the instance of abandoned call attempts. Finally, regarding the Commission's recent Payphone Order, it is not clear at this time what effect, if any, that order will have on the issues raised in this docket.

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COMPETITIVE TELECOMMUNICATIONS ASSOCIATION**

The Competitive Telecommunications Association ("CompTel") provides the following comments in response to the Common Carrier Bureau's request for additional comments regarding the issues raised in this docket.¹ The Bureau's questions follow up on a recent proposal that some or all carriers provide an audible price disclosure prior to completing every 0+ operator service call they carry.² CompTel has opposed that proposal because it exceeds the Commission's statutory authority, discriminates among carriers without valid record support for differential treatment, and is technically infeasible. The Public Notice requests further comment on the price disclosure proposal and certain specific questions raised thereby.

In these comments, CompTel offers an alternative to the price disclosure proposal. This alternative, to be applied to all operator service providers, will assist consumers in making an informed decision whether to place a 0+ call, without unlawfully

¹ See Public Notice, DA 96-1695 (Oct. 10, 1996).

² In the Matter of Billed Party Preference for 0+ InterLATA Calls, Second further Notice of Proposed Rulemaking, FCC 96-253 (rel. June 6, 1996) ("Second Further Notice").

penalizing any particular operator service providers. In addition, CompTel submits additional information in response to the specific questions posed by the Bureau.

I. THE COMMISSION SHOULD ADOPT AN ALTERNATIVE DISCLOSURE HELPFUL TO CONSUMERS

In previous comments in this docket, CompTel explained that the Commission's proposal to require some carriers to disclose 0+ rates at the time of the call exceeds the Commission's statutory authority, and is technically infeasible to provide.³ As CompTel explained in those comments, the Commission's price disclosure proposal exceeds the Commission's statutory authority because it distinguishes among carriers based upon rates charged without the required findings that those rates are unreasonable, and because the content of the mandatory statement exceeds that authorized by TOCSIA.⁴ In addition, CompTel noted that most carriers are unable to provide automated rate disclosure on a real-time basis without exorbitant expense and unacceptable post-dial delay.⁵ CompTel recommended that the Commission could, however, apply a disclosure consistent with TOCSIA, but should apply that disclosure to all 0+ calls, regardless of carrier.

In these comments, CompTel now offers a specific disclosure, which furthers the Commission's goals in a way that is consistent with the Communications Act and with carriers' call processing capabilities. Specifically, CompTel proposes that a disclosure in the form described below be applied to all interstate 0+ calls from aggregator locations,

³ CompTel Comments at 4-14, 17-20 (July 17, 1996).

⁴ Id. at 4-10.

⁵ Id. at 17-20.

regardless of the carrier presubscribed to the phone.⁶ The disclosure CompTel proposes should be made by all carriers immediately after the carrier brand and prior to the customer incurring any charges, and should inform the customer of the actions he or she may take (other than hanging up and re-dialing a different number) to obtain a rate quote. This disclosure should be substantially in one of the following forms:

Option 1

BONG: "Thank you for using _____. For assistance or a rate quote, please press the # key.⁷ To complete your call, please enter your calling card number now."

Option 2

BONG: "Thank you for using _____. For assistance or a rate quote, please stay on the line. To complete your call, please enter your calling card number now."

The Commission should allow carriers to choose which of the above options is most consistent with their call processing systems. CompTel's proposal, however, would not permit carriers to require a caller to re-dial a second number in order to obtain a rate quote.

This alternative disclosure meets the Commission's goals of reducing caller confusion with operator-assisted calling and of providing consumers with information necessary to make an informed decision prior to completing a call.⁸ Under CompTel's proposal, every consumer would be reminded -- audibly and before incurring any charges --

⁶ CompTel proposes this disclosure for aggregator phones only; it does not propose applying the disclosure to calls placed from inmate phones.

⁷ Reference to the # key is illustrative. Due to the variety of call processing software that may be used to provide operator services, the carrier should be given discretion to identify any sequence of digits (#, 0, *2, etc.) by which the caller may obtain a rate quote.

⁸ See, e.g., Second Further Notice at ¶ 15.

of his or her right to obtain rate information prior to completing an operator-assisted call. In addition, consumers will have the ability to obtain this information easily and with minimal disruption, simply by pressing a designated key or by staying on the line. Moreover, through repetition of this disclosure on every 0+ call regardless of the carrier involved, consumer understanding and familiarity with the operator-assisted calling environment will be increased. As a result, the CompTel proposal would increase consumer awareness and would give interested consumers the information they need to make an informed choice when using operator services, without hindering the ability of frequent callers to make calls without delay.⁹

This alternative disclosure also is consistent with the Commission's statutory authority and with carrier call processing capabilities. First, because the disclosure would apply to all operator service providers, it avoids concerns over the Commission's legal authority to impose differential treatment on carriers. CompTel's proposed disclosure does not take the Commission along the path of attempting to draw a line between permissible and impermissible 0+ rates. Second, CompTel's proposal builds upon the approach taken in TOCSIA and the disclosure authorized by TOCSIA. TOCSIA and the Commission's rules already require carriers to make rate quotes available upon request, and to ensure that aggregators post information at the phone informing consumers how to obtain rate quotes.¹⁰ CompTel's proposal simply reminds consumers of these rights through an audible announcement immediately after the carrier brand, and provides them with an easy way to

⁹ Callers making a series of calls would not be inconvenienced because virtually every carrier allows initiation of additional calls without hanging up by pushing the # key after the prior call is completed.

¹⁰ 47 U.S.C. § 226(b)(1); 47 C.F.R. § 64.703.

obtain the information TOCSIA requires to be available. Moreover, the content of the proposed disclosure is consistent with the additional disclosure authorized by Section 226(h)(2).

Finally, because the disclosure is simple, direct, and consistent on each call, CompTel believes carriers could implement this proposal with minimal expense. Unlike the Commission's price disclosure proposal, carriers could implement one single disclosure, and could integrate that disclosure with the audible brand that they already provide. Carriers should be given a reasonable time period in which to implement the revised disclosure, however.¹¹ Therefore, CompTel recommends that the Commission adopt its proposed alternative disclosure instead of the disclosure described in the Second Further Notice.

II. RESPONSES TO THE BUREAU'S QUESTIONS

1. **Are there any industries in which price disclosure to consumers at the point of purchase is not the normal practice? If so, what are those industries and what are the particular circumstances surrounding the developments of those industries?**

In a number of situations where a consumer is assessed a usage-based charge, and there is a potential for repeated usage, price disclosure frequently is not provided at the time of the usage in question. This occurs in a number of other telecommunications situations as well as in other industries.

For example, it is the practice in all 1+ calling contexts not to disclose the price of a call at the time of call completion. This is true even in casual calling situations, such as 1+

¹¹ Because some switches used by operator service providers limit the length of the carrier brand, carriers may need a reasonable time to develop an alternative method of implementing the disclosure on calls handled by these switches.

calls placed from hotel rooms and 10XXX-1+ calls. In both situations, consumers may or may not be aware of the exact rate that will be charged, but call completion is not interrupted with a price disclosure.¹² Notably, the Commission has concluded in this docket that consumers are "generally informed" in 1+ calling situations.¹³ Similarly, cellular telephone usage often is subject to a monthly "free" allotment, followed by per minute charges thereafter, but consumers do not receive a notice at the time of each call whether they have exceeded their monthly "free" airtime or the rate they will pay for each minute of use on that call. The "roaming" administrative fee imposed by cellular carriers on callers visiting from other areas also is not announced or effectively disclosed at the time of purchase.

The practice of permitting usage without price disclosure also is common in information service and non-telecommunications contexts. For example, many Internet access providers charge for usage on a per-hour basis, sometimes with a monthly allotment of "free" connection time. However, the consumer is not given any disclosure of the rate applicable to each connection to the Internet.¹⁴ Similarly, neither Federal Express nor UPS places rate disclosure information on their standard overnight packing slips, even though each of the delivery options on those slips carry with it a different rate.¹⁵

It is important to note that in all of the above situations the rate is available to consumers if they wish to obtain it. Consumers have the option to obtain this information

¹² Even in the case of direct dialed 1+ calls from home, the consumer's rate may vary depending upon time of day or distance, but the 1+ carrier does not identify either the rate period or the per minute rate after each call is dialed.

¹³ Second Further Notice at ¶ 15.

¹⁴ For example, once consumers exceed the allotment of usage each month, they do not receive a notice stating, "Each additional hour of usage will be \$___."

¹⁵ See Attachment 1 for examples of Federal Express and UPS packing labels.

from their provider simply by inquiring. Yet this also is true of 0+ calling situations, where carriers are required to make rate quotes available upon request.¹⁶ Instead of mandatory price disclosure before each billed event, each of these situations relies upon consumers to seek out rate information prior to incurring charges. Although this may sometimes result in consumer complaints, the market disciplines abuses by providers, through consumer refusals to use providers in the future if they are dissatisfied with the service and/or rates they receive. As explained above, CompTel's proposed alternative is consistent with the workings of these other competitive markets.

2. **What kinds of technologies (including payphone equipment and associated software) are currently available to provide on-demand call rating information for calls from payphones, other aggregator locations, and phones in correctional institutions that are provided for use by inmates? Commenters should discuss the anticipated declining cost of these technologies, assuming a wide-spread demand for these services.**

As CompTel and others explained previously in this docket, the operator services industry does not have the capability to provide real-time call rating. Rather, call rating is a function that is provided separate from, and well after, call processing and billing validation are performed. To modify these systems to provide real-time call rating would be difficult and expensive.

First, carrier switch software would have to be modified by the switch manufacturer to allow for rating to be performed. Modifications of this type most often involve custom design solutions, which are difficult to perform and to estimate. In addition, carriers must modify their own software and purchase new equipment to perform call rating. This software often is proprietary and involves customized call processing features. Thus, the

¹⁶ 47 C.F.R. § 64.703(a)(3).

technical methodology to accomplish real-time call rating would vary from carrier to carrier. Essentially, however, real-time call rating would require the carrier to develop and maintain a separate database containing updated rate tables for every rate plan offered. This database would have to be capable of processing queries, using the appropriate rating variables, which include (but are not limited to) originating number, terminating number, method of billing, and location contract information. Further, call processing software would have to distinguish call types to ensure that emergency calls are not affected, and to determine the jurisdictional nature of the call.

The systems necessary to provide this degree of sophistication in call processing not exist today, and would be very expensive to develop and maintain. Moreover, this functionality cannot be deployed in older call processing systems, and is inconsistent with store-and-forward call processing applications. Finally, because many of the modifications necessary must be customized to work with proprietary switch and call processing software, CompTel does not anticipate that "wide-spread demand" will have a significant effect upon the cost of these modifications.

4. **Some commenters have claimed that price disclosure prior to call completion would create an unacceptable delay to consumers. Are there any studies that substantiate or dispute this contention and are those studies available? Are there any studies available that provide indications of consumer satisfaction or dissatisfaction with 0+ services provided in this fashion?**

As the question notes, several commenters noted that price disclosure likely would require many carriers to default every call to a live operator for call completion.¹⁷ Live operator calls typically involve two to three times the call set-up time involved in processing

¹⁷ See, e.g., MCI July 17, 1996 Comments at 3; Sprint July 17, 1996 Comments at 4 n.3.

an automated calling card call. Thus, if calls routinely were routed to live operators, callers would see significant increases in post-dial delay. In addition, if the volume of calls routed to live operators significantly increased, it is likely that the amount of time a caller has to wait in queue for an available operator also would increase. Such wait times, however, increase the number of calls which are abandoned prior to call completion. Thus, CompTel agrees with other commenters that price disclosure is likely to lead to increased call set-up times and that many consumers will find the delay unacceptable and abandon their calls prior to call completion.

7. **What effects, if any, will the recent Report and Order in the Matter of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket Nos. 96-128, 91-35, FCC 96-388 (released September 20, 1996) have on this proceeding?**

It is unclear at this time whether the Commission's recent payphone compensation order will affect the 0+ calling environment, and, if so, what its effect will be. On the one hand, the payphone order requires carriers to make substantial additional payments to payphone providers. These payments may or may not be recoverable from the individual calls which trigger the expense, so the possibility remains that carriers will have to increase all charges, including 0+ charges, to recoup these additional costs. On the other hand, however, some payphone providers have claimed that the present system required them to rely inordinately upon 0+ commissions and PIFs to recover their payphone costs. If alternative sources of revenue become available, they have implied, payphone providers would not need to recover as much from 0+ calls. Although the payphone order provides these additional revenue sources, it is not clear what incentive payphone providers might

have to recover from the 0+ commissions and PIFs that currently demand. In other

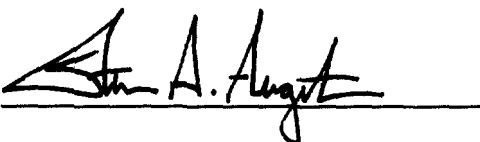
words, it is hard to see what incentive payphone providers would have to lower demands for 0+ commissions below those present today. As a result, CompTel is unable to predict whether PSP market behavior will be affected by the recent Payphone Order.

CONCLUSION

The Commission has for several years now explored options to increase caller understanding of 0+ calls and to ensure that they have adequate information upon which to make an informed decision whether to place an operator-assisted call. CompTel offers such an option in these comments, with its proposal that carriers audibly disclose the availability of rate information to each 0+ caller. The Commission should adopt this alternative disclosure instead of those previously proposed in this docket. CompTel believes that this disclosure is most helpful to consumers and is most consistent with the technological and legal constraints applicable to operator-assisted calling.

Respectfully submitted,

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November 13, 1996

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☐ C.O.D. AMOUNT \$
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UPS Next Day Air

- ▶ Guaranteed on-time delivery to every address in the United States and Puerto Rico.
- ▶ Next-business-day delivery to all addresses coast-to-coast, many points in Alaska, the Island of Oahu in Hawaii, and all locations in Puerto Rico.
- ▶ Delivery by 10:30 a.m. to 76 percent of the U.S. population.

(See the UPS Air Service Guide or contact your UPS Customer Service office for complete guarantee and time-in-transit details. Full UPS Next Day Air service is not available from all locations.)

UPS Worldwide Express

- ▶ Fast, reliable delivery of documents and packages to more than 185 countries and territories.
- ▶ Most shipments delivered in two business days.

(See the appropriate UPS service guide or contact your UPS Customer Service office for complete details.)

Type or print a separate UPS Air Shipping Document for each UPS Letter or package.

1. Enter your name, address, and telephone number. You may also include a reference number for your records.
2. Enter the receiver's name, address, and telephone number. A complete and legible address, including ZIP Code, will help ensure prompt delivery. For international shipments, include the receiver's country.
3. Record the weight and zone.
 - ▶ **Weight:**
For a UPS Next Day Air Letter, enter "LTR". For any other type of package, enter the weight. Increase fractions of a pound to the next full pound.
 - ▶ **Zone:**
Record the applicable zone in the ZONE space. Refer to the current UPS zone chart or call your UPS Customer Service office to obtain the zone.
4. Indicate TYPE OF SERVICE by marking an "X" in the appropriate box.
Record the applicable charge in the CHARGES column.* (You may leave the CHARGES column blank if you are selecting the BILL SHIPPER option as your method of payment. See # 6.)
For Worldwide Express shipments, mark an "X" in the DOCUMENTS ONLY box if the shipment contains documents of no commercial value only.
Note: Invoices describing the package contents and value are required for shipments to international destinations and Puerto Rico. (UPS Letters containing documents only do not require invoices.) Refer to the appropriate UPS service guide or call your UPS Customer Service office for complete instructions.

* Refer to the current UPS rate chart or call your UPS Customer Service office to obtain the applicable charges.

5. Make the appropriate entry for any OPTIONAL SERVICES requested and record the applicable charges in the CHARGES column.*

▶ Saturday Delivery:

Saturday delivery is available to 89 percent of the U.S. population. Refer to the UPS Air Service Guide or call your UPS Customer Service office to determine whether Saturday service is provided to a specific destination.

Mark an "X" in the SATURDAY DELIVERY box. (Customers receiving daily pickup service must also affix a UPS Saturday Delivery routing label to the UPS Letter or package directly below the Air Shipping Document.) An additional charge, as stated on the current UPS rate chart, will be billed for delivery or attempted delivery on Saturday of each UPS Letter or package.

▶ Delivery Confirmation:

Mark an "X" in the DELIVERY CONFIRMATION box. Prepare a UPS Delivery Confirmation Request label and affix it to the UPS Letter or package. (Follow the instructions on the back of the label.) An additional charge, as stated on the current UPS rate chart, will be assessed for the Delivery Confirmation option(s) selected. (Delivery Confirmation Service is not provided to international destinations.)

▶ Declared Value:

Each UPS Letter or package is automatically covered against loss or damage up to a value of \$100. If additional coverage is desired, mark an "X" in the DECLARED VALUE box and record the value in the space provided. An additional charge, as stated on the current UPS rate chart, will be assessed for each additional \$100 or fraction thereof of declared value in excess of \$100.

▶ C.O.D.:

Mark an "X" in the C.O.D. box and record the amount to be collected in the space provided. Complete a UPS C.O.D. tag and affix it to the UPS Letter or package. An additional charge, as stated on the current UPS rate chart, will be assessed for each C.O.D. received for collection. (C.O.D. service is not provided to international destinations.)

6. Total all charges and indicate the METHOD OF PAYMENT.

▶ Bill Shipper:

Charges will be billed to the UPS Shipper Number or UPS Billing Number recorded in section # 7.

▶ Credit Card:

Charges will be billed to the credit card number recorded in section # 7.

▶ Check:

Prepare a check for the total charges made payable to United Parcel Service. If you are affixing the shipping label in a UPS Letter Center, insert the check behind the UPS COPY

7. If you are using a UPS account, record the UPS Shipper Number or UPS Billing Number.

New customers can establish a UPS account and receive a UPS Billing Number by calling their UPS Customer Service office.

If you are paying by major credit card, record the credit card number and expiration date.

8. Sign and date the Air Shipping Document.

Remove the SHIPPER'S COPY for your records.

Remove the backing and affix the Air Shipping Document to the top of the package (but not over any seams or closures) or in the space provided on UPS-supplied containers.

If you need additional information or would like to receive a supply of pre-printed Air Shipping Documents, simply call your UPS Customer Service office at 1-800-PICK-UPS (800-742-5877).

REMOVE BACKING FROM THIS SIDE